

AGENDA ITEM #12
May 12, 2008

Worksession

MEMORANDUM

May 8, 2008

TO: County Council

FROM: *KL* Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Worksession: FY09 Operating Budget: Department of Environmental Protection (DEP)**

Transportation, Infrastructure, Energy & Environment Committee

Recommendation: Approve as recommended by the County Executive but with three increments of \$100,000 added to the Reconciliation List to reopen the Clean Energy Rewards Program in FY09. The Committee is also supportive of the creation of a carbon reduction fund with revenue possibly coming from increases in the Energy Tax. This issue will be discussed in a joint meeting of the T&E and MFP Committees on May 9.

NOTE: This budget review does not include the Division of Solid Waste Services which is recommended to move from the Department of Public Works and Transportation to DEP. The Solid Waste Services budget will be reviewed by the Committee separately.

Those expected for this worksession:

DEP Director Robert Hoyt
Stan Edwards, Chief of Environmental Policy and Compliance
Steve Shofar, Chief of Watershed Management
Amy Stevens, Manager, Stormwater Facilities
Gladys Balderrama, Manager, Administrative Services
Trudy-Ann Hunter, Office of Management and Budget

The Executive's recommendation for the Department of Environmental Protection is attached on ©1-9.

Department Structure

DEP is organized into three broad program areas. These programs are summarized below:

- **Watershed Management**
 - Watershed-based monitoring, planning, policy development, and project implementation activities.
 - Stormwater Facility Maintenance
- **Environmental Policy and Compliance**
 - Development and implementation of scientifically-based programs in areas such as air quality, energy conservation, noise abatement, environmental monitoring of solid waste facilities, surface and groundwater quality, and pollution prevention.
 - Forest preservation initiatives
- **Director's Office**
 - Overall management and administration to the department including finance, automation, personnel issues, and other areas.
 - Policy development and leadership for all programs.
 - Centrally coordinated public education element.
 - Water and wastewater management and coordination.

Overview

For FY09, the Executive recommends total expenditures of \$11,774,370 for the Department of Environmental Protection, a 12.5% increase from the FY08 approved budget. The budget includes expenditures in both the General Fund as well as the Water Quality Protection Fund as presented in the following chart:

**Table #1
DEP Expenditures and Positions/Workyears by Fund***

General fund	Actual	Approved	CE Rec	Change FY08-FY09	
	FY07	FY08	FY09	\$\$\$	%
Personnel Costs	2,978,121	3,511,230	3,617,700	106,470	3.0%
Operating Expenses	923,533	1,253,800	1,144,840	(108,960)	-8.7%
Capital Outlay		-	-	-	-
Total	3,901,654	4,765,030	4,762,540	(2,490)	-0.1%
Full-Time Positions	45	46	45	(1)	-2.2%
Part-Time Positions	6	5	4	(1)	-20.0%
Workyears	34.9	34.9	33.9	(1.0)	-2.9%
Water Quality Protection Fund					
Personnel Costs	1,147,033	1,455,640	1,789,650	334,010	22.9%
Operating Expenses	3,949,006	4,245,570	5,198,680	953,110	22.4%
Capital Outlay			23,500	23,500	-
Total	5,096,039	5,701,210	7,011,830	1,310,620	23.0%
Full-Time Positions	11	12	15	3	25.0%
Part-Time Positions	1	1	1	-	n/a
Workyears	13.9	13.9	17.1	3.2	23.0%
Totals					
Personnel Costs	4,125,154	4,966,870	5,407,350	440,480	8.9%
Operating Expenses	4,872,539	5,499,370	6,343,520	844,150	15.3%
Capital Outlay	-	-	23,500	23,500	-
Total	8,997,693	10,466,240	11,774,370	1,308,130	12.5%
Full-Time Positions	56	58	60	2	3.4%
Part-Time Positions	7	6	5	-1	n/a
Workyears	48.8	48.8	51.0	2.2	4.5%

Note: \$52,345 in FY07 grant funded expenditures not included.

DEP also charges \$786,100 and 7.0 workyears to the CIP and \$680,500 and 5.1 workyears to the Solid Waste Disposal Fund.

For FY08, the General Fund portion of the DEP budget is basically flat (down .1%). Workyears are down by 1. Expenditures in the Water Quality Protection Fund are recommended to increase by 23%.

The Executive recommends a net increase of 3 full-time positions and a net decrease of 1 part-time position.

Position Changes

Table 2:
Position Changes in DEP Operating Budget

	FY09 Oper Costs*	WYs	Comments
New Positions for FY09			
F/T Planning Specialist III (WQPF)	65,190	0.8	Residential LID Program
F/T Planning Specialist III (WQPF)	65,190	0.8	Transfer Program
F/T Inspector III (WQPF)	94,960	0.8	Private swm facility insp/enforcement
Abolished Positions for FY09			
F/T Planning Specialist III (GF)	(81,040)	(1.0)	vacant position in Env Policy & Compliance
P/T Program Manager I (GF)	(33,600)	(0.5)	vacant position in Env Policy & Compliance
Transfer of Position Costs to CIP			
F/T Planning Specialist III (WQPF)	(91,000)	(1.0)	LID work transferred to WQPF CIP
Total	19,700	(0.1)	

*includes total personnel costs and associated operating expenses. New positions are lapsed .2 wys

The FY09 DEP budget includes the creation of three new positions in the Water Quality Protection Fund and the abolishment of two vacant positions in the General Fund. Expenditures for one current position are recommended to move to the CIP but remain funded with Water Quality Protection Fund dollars.

The Committee expressed concern that DEP was reducing positions at a time that new initiatives (such as carbon emissions reductions and forest conservation efforts) were being considered that would involve DEP participation. The DEP Director noted at the Committee worksession that many of these efforts involve planning work in FY09 that he believes can be managed with the recommended staffing level. He indicated that future implementation of initiatives beyond FY09 may require additional resources. See ©11-13 for further details.

Subsequent to the T&E meeting, DEP provided some additional information regarding the two positions to be abolished:

The two positions that are recommended to be abolished would not have a direct impact on the workload that may be associated with the legislation recently approved by Council. The part-time Program Manager I position, which used to be dedicated to indoor air quality issues, has been vacant for some time. The abolishment of this position is possible because all of DEP's Code Enforcement personnel are now able to handle indoor air issues. The full-time vacant Planning Specialist III position would have supported the new Green Business Certification program and other sustainability efforts. DEP is filling this role by working with private sector partners to ensure that the Business Certification program is successful.

Lapse

DEP's lapse for FY09 is recommended to remain unchanged at \$182,347 which represents approximately 2.9% of personnel costs. Over the past several years, DEP has had

substantial lapse savings because of a high number of vacant positions (DEP had as many as 17 vacancies during FY06 and as many as 15 during FY07). Because of this experience, over the past couple of years, Council Staff has recommended increases in lapse for the department.

However, during the early part of FY08 (before the countywide hiring freeze went into effect), a number of positions were filled (including the long vacant Director position). DEP still has three vacant positions it is seeking to fill. As noted above, two other vacant positions are recommended for abolishment.

Based on past reviews, a 2 to 3% lapse rate appears reasonable for a department such as DEP under typical attrition rates.

Given DEP's FY08 hiring experience and the recommended abolishment of two vacant positions, **Council Staff supports the lapse assumption in the recommended budget.**

General Fund Budget

Summary Crosswalk from FY08

The FY09 CE recommendation within the DEP General Fund Budget includes a decrease of \$2,490 (-.1%). There are a number of technical adjustments (no change in services) as noted in the following chart:

**Table #3
DEP General Fund Budget Changes**

Technical Adjustments	
General Wage and Service Increment Adjustments	165,710
Group Insurance Adjustment	47,630
Retirement Adjustment	31,180
MLS Adjustment	14,700
Annualization of FY08 Personnel Costs	9,630
Annualization of FY08 Service Increment	(1,190)
Personnel Costs Savings from Turnover	(46,550)
Adjust motor pool rates	25,190
Adjust printing and mail costs and central duplicating	4,600
Subtotal - Technical Adjustments	250,900
Cost Reductions	
Decrease Operating Expenses (Admin, Watershed Manage. & Env Policy & Compliance)	-122,750
Abolish Vacant Positions (1 F/T and 1/ P/T)	-114,640
Reduction in Gypsy Moth Suppression Costs	-41,000
Subtotal - Cost Reductions	(278,390)
New	
Add Green Business Program	25,000
Total Recommended Changes from FY08	(2,490)

The crosswalk highlights the fact that the General Fund portion of the budget is changing little from the FY08 Approved Budget. With the exception of the new Green Business Program, all of the cost increases are technical in nature. The operating expense reductions include reductions in some miscellaneous operating expense accounts such as outside printing, education

and training, travel, advertising, and reduced professional services contracts. Based on prior year expenditures, DEP does not expect these reductions to have any service impact in FY09. With regard to the vacant positions proposed for abolishment, DEP has already internally reallocated workloads over the past year to address the work previously done by these positions.

Green Business Program

This \$25,000 program represents the only new initiative assumed in the General Fund portion of the DEP budget. Below is a description of this program provided by DEP:

The Green Business program is intended to recognize and publicize businesses that are meeting certain environmental standards through a certification program modeled after programs in several other jurisdictions around the country. The details of the program have not been finalized, but key parameters that are being considered are outlined below. The \$25,000 in the budget could be used to develop any of these areas.

- *Certification should be tiered so that businesses could achieve a very basic level of certification for actions related to a specific environmental category (e.g., energy conservation, stormwater management, pollution prevention, etc.) or an advanced level of certification for extensive actions.*
- *Certification should be conducted on-site by a third party to verify that businesses meet required actions.*
- *Similar to a number of jurisdictions, the County should also recognize extraordinary environmental achievement by businesses that go above and beyond certification. (DEP has discussed with the Alliance for Workplace Excellence the prospect of their developing such a program.)*
- *Recertification should be every 2-3 years.*
- *Certified businesses would receive a window decal and/or plaque, as well as an electronic logo that could be used on stationary. Since this would be a voluntary program, care should be given in the design and branding of the logo in order to minimize concern that it is a regulatory program.*
- *Certified businesses would get listed in a "Green Directory" available on the internet and in newspapers, be recognized through press releases and showcased through case studies.*
- *The program should be piloted for a period of 3-6 months to sort out issues related to technical assistance, checklist items and certification tiers, etc.*
- *The program should be designed to measure environmental and financial benefits.*
- *The program should initially target specific market sectors, with additional sectors added over time.*
- *Involving the business community in the development of the program is critical to its success.*

The FY09 effort reflects planning to initiate a green business certification program. Depending on the scope of the program developed, the future costs of such a program could be significant. However, the costs are small for FY09 and consistent with DEP's broad mandate to promote and encourage environmental best practices both within government and the private

sector. However, as the program is being developed, careful consideration needs to be given to the ongoing County government resource commitment required.

Gypsy Moth Suppression

The County works in partnership with the Maryland Department of Agriculture (MDA) with regard to gypsy moth surveying and suppression. The County and MDA split the surveying costs 50/50 and the County pays approximately 30% of the spraying costs with MDA. The County also may do additional spraying at its own expense. DEP staff prepared a chart (see ©10) showing actual FY07, estimated FY08, and FY09 expenditures for the program for both the County and MDA.

For FY08, the Council approved an \$80,000 increase in expenditures for gypsy moth surveying and suppression. Included in the total amount for FY08 (\$147,000) was an additional \$9,000 to expand the annual survey (from \$16,000 to \$25,000) in order to survey more area and in more detail and \$71,000 more in spraying expenditures (from \$51,000 to \$122,000). However, DEP's latest estimates are that the County will spend \$96,000 (\$51,000 less than budgeted).

For FY09, based on the FY08 experience, DEP is budgeting \$96,000 for the survey and spraying. Actual costs will not be known until the results of the next annual survey which is done around January of each year. However, since the gypsy moth population is expected to peak in FY09 or FY10, costs are likely not to be less than what is being experienced during FY08. The recommended reduction will remove any cushion to absorb cost increases and will mean that DEP may need to reallocate resources within its budget next year if the results from the next gypsy moth survey warrant more spraying and/or the spraying costs per acre increase.

Clean Energy Rewards Program

The Executive's Recommended FY09 budget includes \$361,000 for clean energy rewards; the same as approved for FY08 and FY07. Not included in that total are the programmatic costs to DEP of running the program (including a full-time position).

DEP estimates that residential participants are purchasing an average of 10 megawatts of clean energy each year, resulting in reduced Carbon dioxide emissions of about 6.47 tons per year. For residential customers, DEP estimates the reward to be approximately \$100 per participant and therefore the cost per ton reduced is about \$15.46.

From the program's inception in January 2007 through January 2008, DEP estimates that approximately 17,000 megawatts of clean energy were purchased via the program (both residential and commercial purchases) with an estimated reduction in carbon dioxide of nearly 11,000 tons.

This past January, DEP had to close the program to new participants in order to ensure existing resources would be sufficient to cover projected rewards. DEP estimates that approximately 2,900 participants have enrolled in the program through the 3rd quarter of FY08.

The Committee asked DEP why we can't get the power companies to tell us who chooses clean energy, so that the County can choose to offer direct credits or subsidies to ratepayers. DEP's response is below:

We are hopeful that they will provide this information voluntarily. We will keep County Council informed of our progress and will let you know what responses we receive from the utilities.

Additionally, under the current program, not all clean energy products supplied by energy suppliers are certified through the program. DEP is required by regulation to track the generation sources of the clean energy supplied to Montgomery County consumers. This is monitored through a regional tracking system. If direct credits or subsidies were provided to consumers without DEP's review of the product's compliance with the regulation, DEP would be violating the law.

Finally, offering a reward provides an opportunity for consumers who live in apartments and condos where the utilities are included (i.e. in rent or condo fees) to receive a reward by purchasing RECs. This allows for more consumers to participate and provides greater greenhouse gas reductions to Montgomery County.

Councilmember Berliner noted that future meetings with Pepco and the other energy suppliers are needed to discuss these and other issues.

In order to make FY09 and future dollars go further, DEP has suggested changing the program's criterion requiring regional clean energy purchases to allow national clean energy purchases. National clean energy purchases are approximately ½ the cost of regional purchases and would therefore allow more participants (and more clean energy purchases and resulting estimated CO2 emissions reductions) than under the current structure.

One of the original goals of the program was to link the program cost to a local emissions reduction. However, the region as defined in terms of the electric grid is the Mid-Atlantic region and the specific emissions benefit of these purchases to Montgomery County, if any, is impossible to quantify. In this context, Council Staff believes increasing the amount of clean energy purchased through moving to national purchases is a good strategy. **Council Staff suggests that the County Executive transmit to the Council a new Clean Energy Rewards regulation (Method 1 as required under applicable law) that would allow for the national purchase of clean energy under this program.**

Assuming national purchases, the program would be able to roughly double in size within the dollar amounts recommended by the County Executive. Without the change, the program would likely not be able to take on new participants without additional resources. However, as noted in DEP's response below, assuming no new dollars are added to the program, new participants could only be brought on as existing participant contracts end and are switched national purchases:

It is important to note that it will not be possible to begin to offer national clean energy purchases beginning in July 1. It will take at least 3 to 4 months for DEP to work with the utilities to provide certified national clean energy products.

On the issue of how many new participants can be added in FY 09, there is no way to know. This is because once the products are certified (and assuming the budget remains at \$361,000), the exact number of new people who will be able to join will be determined by whether the existing participants drop out of the program or renew their contracts. Given that this is a new program and because of the rising energy costs, we do not have any way of knowing how many will renew and how many will not renew.

If an existing participant does not renew, the dollars set aside for that particular purchase will be available to be used for new participants under the national program. On the other hand, if an existing participant renews under a national program, the County will still be able to allocate some funds for new participants but it will be less. The amount allocated for new participants when existing participants renew will be the amount of the savings to the County of going from a regional program to a national program.

For example, when an existing residential participant who under the regional program receives 1 cent per KWH renews under a new national program at .5 cent per KWH, the County will use the savings of .5 cent per KWH cent to fund new participants.

The final part of the question above relates to when new participants will be able to join in FY09. As described above, new participants will be able to join as the existing contracts expire.

The Committee is supportive of changing the program requirements to allow national purchases of clean energy. The Committee also added 3 increments of \$100,000 to the Reconciliation List that would allow the program to take on additional participants early in FY09. The Committee is also supportive of the concept of a carbon reduction fund that could be a funding source for this or other carbon reduction programs.

New Carbon Reduction Initiatives

On November 20, 2007 the Council introduced a package of bills intended to address the issue of global warming through a number of initiatives to reduce carbon emissions. A hearing on these bills was held on January 31, 2008. Committee review of the bills is ongoing.

The bills are:

- Bill 29-07, Environmental Sustainability – Climate Protection – Motor Vehicles rates
- Bill 30-07, Buildings – Energy Efficiency

- Bill 31-07, Real Property – Energy Performance Audits
- Bill 32-07, Environmental Sustainability – Climate Protection Plan
- Bill 33-07, Renewable Energy
- Bill 34-07, Planning Procedures – Greenhouse Gas Emissions
- Bill 35-07, Consumer Protection – Energy and Environmental Advocacy

Of particular note in the context of the DEP budget is Bill 32-07 (which requires DEP to develop a climate protection plan by January 2009 that would reduce greenhouse gas emissions by 80% by 2050) and Bill 33-07 (which requires DEP to develop a renewable energy action plan).

With regard to Bill 32-07, DEP staff have been developing a greenhouse gas inventory (which is a critical first step in the process of setting climate protection goals) and will be available at the April 24 meeting to summarize the baseline results to date. However, to move forward with a climate protection plan would require consultant support in the range of \$100,000 to \$200,000 according to the fiscal impact analyses of the bill prepared by OMB.

In T&E Committee discussions of this bill, the Committee recommended creating a sustainability working group made up of County agency representatives as well as outside experts. The DEP Director would co-chair the group and the CAO would be responsible for identifying staff to support the group. The fiscal impact of this approach is still under review.

According to the original fiscal impact analysis prepared by OMB, DEP would need consultant support (approximately \$50,000 to \$100,000 to assist in the preparation of a renewable energy action plan as required in Bill 33-07. There may be efficiencies gained from combining this effort with the consultant work required for the climate protection plan mentioned above.

In response to a query from Councilmember Ervin as to DEP's budgetary needs with regard to a variety of initiatives (including the Council's global warming legislation), DEP Director Hoyt submitted a memorandum on April 22 (attached on ©11-13) stating that DEP's current budget resources should be sufficient to allow DEP to meet these requirements.

Councilmember Leventhal asked what the County spent on its Y2K initiative and suggested that the urgency the County showed with that effort will need to be repeated in the context of carbon reductions. OMB Staff provided the following historical cost information on the Y2K effort:

Since startup in October 1996, a total of \$47,181,968 has been provided over the life of the project for the following agencies: Montgomery County Government (\$10,409,190), Montgomery County Public Schools (\$20,733,983), Montgomery College (\$9,451,875), Maryland-National Capital Park and Planning Commission (\$817,040), Housing Opportunities Commission (\$649,300), and the Year 2000 Project Office (\$5,120,580).

Water Quality Protection Fund Budget

Water Quality Protection Charge

In the fall of 2001, the Council approved Bill 28-00, which created a stormwater management fund (now called the Water Quality Protection Fund). This fund is supported by the annual Water Quality Protection Charge.

The Council is required to set the rate for this charge each year by resolution. A resolution was introduced on April 1 (attached on ©14) and a public hearing is scheduled for April 22. The Executive is recommending a rate increase from \$25.23 to \$35.50. The net revenue¹ generated per dollar charged per equivalent residential unit (ERU) is approximately \$225,000.

The ERU is the amount each property owner of a single-family detached home pays per year for each property owned. Townhouse owners pay 1/3 of an ERU. Condominiums and apartments are assessed based on actual imperviousness that is converted to an ERU number. Associated non-residential properties (i.e. properties that drain into facilities that also serve residential properties) are also charged in a similar manner to condominiums and apartments.

The recommended rate increase is needed to cover operating budget increases (described below) as well as changes in the CIP (previously discussed by the Council earlier this year) including the increased use of Water Quality Protection Fund resources to cover reduced levels of stormwater management waiver fees.

The FY09 CE recommendation within the Water Quality Protection Fund Budget includes an increase of \$1.3 million (12.5%).

¹ The charge is paid by Gaithersburg residents but the revenue received is passed (minus an administrative fee) back to the City of Gaithersburg which spends the revenue on stormwater management-related projects in the City.

**Table #4
DEP Water Quality Protection Fund Budget Changes**

Technical Adjustments	
General Wage and Service Increment Adjustments	77,650
Annualization of FY08 Personnel Costs	150,800
Group Insurance Adjustment	21,120
Retirement Adjustment	8,920
Adjust printing and mail costs and central duplicating	2,600
DTS Charges for Maintenance of Asset Management Inventory and Maintenance System	51,000
Pass-through to the City of Gaithersburg	81,550
Transfer of Government Facility Retrofit with LID to the CIP	(591,000)
Subtotal - Technical Adjustments	(197,360)
Cost Increases/Decreases	
Inspection of an additional 130 swm facilities	99,070
Below ground maintenance of an additional 277 swm facilities	176,970
Above ground maintenance of an additional 72 swm facilities	122,660
Annualization of Transfer of MCPS owned swm facilities	633,800
Study Resulting from the Clean Water Task Force	375,000
Downcounty Stream Gauges Maintenance	46,580
Add Inspector III for privately maintained swm facilities	94,960
Add Planning Specialist III to handle the transfer of swm facilities	65,190
Add Planning Specialist III to implement LID program (from existing program dollars)	-
Reduce LID Community Outreach based on expected FY09 implementation	(106,250)
Subtotal - Cost Increases/Decreases	1,507,980
Total Change	1,310,620

Many of the cost increases are the result of increased workload from additional stormwater management facilities moving into the inspection and maintenance program, including additional staff (noted earlier) needed to manage this workload.

The overall budget for FY09 is just over \$7.0 million and breaks down roughly as follows:

**Table #5:
Water Quality Protection Fund FY09 Recommended Expenditures**

Item	FY09 Expenditures	% of Total
Administrative Costs, Overhead, Capital Outlay	1,946,190	27.8%
Inspections and Maintenance and non-CIP improvements	3,472,140	49.5%
LID Work (residential and governmental, non-cip)	434,810	6.2%
Street Sweeping	331,360	4.7%
City of Gaithersburg WQPC Reimbursement	452,330	6.5%
Task Force Study (one-time)	375,000	5.3%
FY09 Recommended Budget	7,011,830	

- As mentioned earlier, the inspections and maintenance piece continues to grow as facilities enter the program.

- About half of the expenditures for LID work have been moved to the CIP (as previously discussed by the Committee). The remaining non CIP LID work for FY09 is focused on targeted neighborhoods in Rock Creek and Glen Echo Heights.
- Targeted streetsweeping work also is recommended to continue at approved expenditures levels for FY09. According to DEP:

“Preliminary analysis supports DEP's targeted approach as cost-effective for preventing solids from entering the storm drains, stormwater management system, and streams. The average in tons per curb mile removed in the residential routes targeted three times per year is much higher than the average for the once-per-year countywide sweeping. After the second year of this enhanced sweeping is completed (November/December 2008), the DEP will complete its analysis of tons of materials collected and determine if changes to the frequency of sweeping is needed to maximize cost-effectiveness (cost per tons removed per curb mile). Results will be published in a summary report. In the Anacostia watershed, it seems likely that some level of routine street sweeping will continue to be necessary to meet the anticipated regulatory limit for trash allowed to reach the streams.”

At the Committee worksession, DEP was asked whether it utilizes DPW&T's streetsweeping contract. DEP staff later confirmed to Council Staff that it utilizes the same contract.

- Clean Water Task Force Study: Two years ago, the prior County Executive established an interagency Clean Water Task Force to recommend what strategies the Council should pursue to protect and improve water quality in the County. The Task Force submitted its final report to the Council in April 2007. One of the studies recommended by the Task Force is included in the FY09 budget request (\$375,000 from the Water Quality Protection Fund). This study would look at the County's development approval process with regard to legislation, regulation, and codes.

Fiscal Plan

The Water Quality Protection Fund Fiscal Plan is attached on ©9. This chart shows estimated costs, revenues and fund balance from FY08 through FY14. Some key facts regarding the fund are noted below:

- The fund balance target is between 10 and 15 percent of resources. The year-end Fund Balance estimate for FY08 is higher (23.6%) as a result mostly of a higher FY07 year-end fund balance than expected as a result of slower implementation of many of the new low impact development (LID) projects as a result of a lack of adequate staffing in DEP (for FY09, new staff are requested) and some leftover streetsweeping and inspection dollars.
- Costs for maintenance of the conveyance system (stormdrains for example) are not assumed in the Fund at this time. If the Fund's scope is expanded to include conveyance in the future, the costs and rates for this Fund will increase substantially. DPW&T staff investigate

stormdrain problems and utilize capital projects to address these problems. However, there is no systematic maintenance and repair program at this time. Expanding the WQPF into this area was discussed when the WQPF was created. However, it was decided at the time to address the stormwater management facilities first before tackling the much bigger issue of conveyance.

- As of April 2008, there are 3,536 storm water management facilities in the County. DEP inspects each facility every three years. These facilities range from dry ponds and wet ponds to underground infiltration trenches, sand filters and detention facilities. DEP is responsible for maintaining 1,047 of these facilities. The number of facilities in the program goes up as new facilities are built, and as existing facilities are added to the program.

Last year, the Council approved the transfer of structural maintenance of MCPS' storm water management facilities to DEP (within the Water Quality Protection Fund) after the facilities have been brought up to current standards. To date, of the 341 MCPS storm water management facilities that have been inventoried, 290 have been transferred. Another 51 facilities require some additional work to be brought up to current standards. Note: all of the "urgent" work identified previously by DEP has been completed by MCPS. **According to DEP staff, there are no more dollars available in the MCPS budget in FY08 to bring the remaining facilities up to current standards and transfer them to DEP. Council Staff is checking with MCPS to see what its plans are regarding this additional work and whether any funds can be identified in FY08 or FY09.**

Water Quality Protection Fund Recommendations

Council Staff recommends approval of the Water Quality Protection Fund budget and the Water Quality Protection Fund charge as recommended by the County Executive.

FY09 General Fund Revenues

In addition to the Water Quality Protection Charge, the DEP budget includes three other ongoing revenue items including the Special Protection Area (SPA) Monitoring Fee, Civil Citations, and the Water and Sewer Plan Review Fee. The fees are estimated to bring in a total of \$269,000 (the same as the FY07 budget and estimate).

Water and Sewer Plan Review Fee

This fee was created in FY06 and is charged to applicants seeking category changes. The intent of the fee is to deter frivolous requests and to provide some cost recovery for the program. DEP and DPS staff must do a substantial amount of work related to category change applications including: answering applicant questions, assembling the application materials, coordinating review and comment from Permitting Services, M-NCPPC staff, and WSSC staff, and drafting an Executive staff report and recommendations for each request.

The fee structure is broken down by type of development (residential, commercial, institutional, public, mixed-use, and public health cases. Non-profit institutions (PIFs), public health cases, and public use/government applications do not pay a fee.

According to DEP staff, the FY09 operating cost associated with the Water/Sewer Category Plan Review is approximately \$125,000 and is based on 50% of the personnel cost of a Senior Planner position, 75% of the personnel cost of a Planning Specialist III position, and 15% operating expenses. The FY09 projected revenue for the Water/Sewer Category Plan Review is \$30,000, which represents 24 percent program cost recovery.

Council Staff recommends that the fee structure and levels be reviewed in the context of the Council's upcoming triennial review of the 10 Year Water and Sewer Plan.

Special Protection Area (SPA) Fee

This fee is intended to cover the cost of pre and post construction monitoring by DEP of development within designated Special Protection Areas in the County. Developers are also required to perform their own Best Management Practices (BMP) monitoring.

According to Chapter 19 Article 5 of the County Code, the fee charged must be based on the "reasonable cost of administering and enforcing" the program. In FY07, DEP estimated that its staff costs related to this fee were approximately \$130,000 per year.

The SPA Monitoring Fee is currently \$475 per acre of development within designated Special Protection Areas in the County. Developers pay the fee at the time sediment control plans are approved by the Department of Permitting Services. The fee has not been increased since 1994 when the law putting this fee in place was enacted.

The FY08 budget assumed revenue of \$200,000. However, the estimate has been brought down to \$120,000 based on current experience. According to DEP, there are a number of factors contributing to the lower fees including the downturn in the housing market, much of the developable land in the SPAs has been developed or is in the process of being developed, and some residual delay in development in Clarksburg due to previous development related issues.

Several years ago, Council Staff discussed with DEP the notion of raising this fee. However, given the intent of the fee is to cover costs (which it had been doing at the time); Council staff did not recommend increasing the fee at that time. However, given the drop in fee revenue expected in FY08 and FY09, the level of the fee may need to be revisited next year.

Civil Citations

DEP is responsible for enforcing several areas of the County Code including: Chapter 3 (Air Quality Control), Chapter 18A (Energy Policy), Chapter 19 (Water Quality), Chapter 31B (Noise Control), Chapter 33 (Pesticide Use), Chapter 38 (Quarries), and Chapter 48 (Solid Waste). DEP typically issues approximately 40 to 50 citations per year.

DEP considers financial penalties as a last resort for achieving compliance. Education and compliance plans are created first, followed by Notices of Violation. Finally, fines are issued. DEP's fines are considered Class A civil violations. Chapter 1 Section 1-19 of the County Code sets the fines for these violations at \$500 for the first offense and \$750 for the second offense. However, these fines can later be reduced by a Judge if the fine is challenged in Court. The fine levels were last updated in 1991.

Continual violations are referred to the State's Attorney for criminal prosecution. DEP also has the ability in some circumstances to refer cases to the Department of Permitting Services to get stop work orders. These orders are an effective tool to bring people into compliance. DEP can also refer cases to the State where the fines may be higher for certain violations.

DEP collected \$13,580 in fines in FY07 and is estimating \$14,000 in fines in FY08 and is assuming the same in FY09.

Councilmember Berliner asked for more information regarding this fee and whether the Executive would consider reviewing the fine structure. DEP provided the following response to Council Staff:

Per County Attorney, the amount of the fine for code violations, whether those violations are designated as Class A, B, or C, is set under Section 1-19 of the County Code. Section 1-19 applies to every County agency including DEP that has the authority to issue citations. The Executive Branch will explore the increase of fines for the next budget cycle. The County Attorney also notes that if the Council wishes to increase the amount of the fine they can do so as long as the amount of the fine does not exceed \$1,000, which is the limit set by state law.

Other Issues

National Pollutant Discharge Elimination System (NPDES) MS4 Permit

DEP is the lead agency for Montgomery County with regard to the County's National Pollutant Discharge Elimination System (NPDES) municipal separate storm sewer system permit. This five-year permit was renewed in July 2001 and most recently modified in January 2004 to include six localities as "co-permittees." The permit was originally scheduled to be renewed in 2006 but is now expected to be renewed no earlier than this summer. The Maryland Department of the Environment (MDE) has forwarded a draft permit to the Environmental Protection Agency (Region 3) for its input.

Given this timing, and the likely phase-in of any new requirements, it is unlikely that any additional funding related to the permit will be needed in FY09.

The Committee asked DEP to brief the T&E Committee on the new draft permit when it becomes public.

Summary of Committee Recommendations

The Committee recommends approval of the DEP Budget with the assumption that the County Executive will transmit to the Council a new Clean Energy Rewards regulation (Method 1 as required under applicable law) that would allow for the purchase of national clean energy products under this program.

The Committee also added 3 increments of \$100,000 to the Reconciliation List that would allow the program to take on additional participants early in FY09. The Committee is also supportive of the concept of a carbon reduction fund that could be a funding source for this or other carbon reduction programs.

The Committee also recommends approval of the Water Quality Protection Fund budget and the annual Water Quality Protection Fund charge (\$35.50) as recommended by the County Executive. The Council will take action on the charge on May 14.

Attachments

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Environmental Protection

MISSION STATEMENT

The mission of the Department of Environmental Protection (DEP) is to protect and enhance the quality of life in our community through conservation, preservation, and restoration of our environment, guided by the principles of science, resource management, sustainability, and stewardship.

County Government Reorganization

In February, 2008, the County Executive announced a detailed Montgomery County Government Reorganization to improve effectiveness, customer service, accessibility, and efficiency. As part of this plan, Solid Waste Services was moved from the Department of Public Works and Transportation to the Department of Environmental Protection. Due to the scale of operations, the Solid Waste Services budget is displayed separately.

BUDGET OVERVIEW

The total recommended FY09 Operating Budget for the Department of Environmental Protection is \$11,774,370, an increase of \$1,308,130 or 12.5 percent from the FY08 Approved Budget of \$10,466,240. Personnel Costs comprise 45.9 percent of the budget for 60 full-time positions and five part-time positions for 51.0 workyears. Operating Expenses and Capital Outlay account for the remaining 54.1 percent of the FY09 budget.

In addition, this department's Capital Improvements Program (CIP) requires Current Revenue funding.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

❖ *Healthy and Sustainable Neighborhoods*

PERFORMANCE MEASURES

This table presents what the department estimates and projects will be the FY08 through FY10 data for its performance measures if there are no changes in funding.

Measure	Actual FY06	Actual FY07	Estimated FY08	Projected FY09	Projected FY10
Enforcement of environmental requirements - Citations ¹	27	70	50	50	50
Enforcement of environmental requirements - Notices of Violation (NOV) ²	285	268	275	275	275
Million metric tons of greenhouse gas emissions in County ³	12.6	12.8	12.9	13.1	13.2
Total number of specific impairments found in County watersheds ⁴	33	33	33	33	34
Percentage of County watersheds in excellent or good condition ⁵	53	51	51	51	51

¹Citations are issued if a Notice of Violation (NOV) goes unheeded, or if the initial violation is severe enough to warrant an immediate civil citation. A citation results in a fine up to \$500 for the first offense, and \$750 for subsequent violations.

²Notice of Violation (NOV) data includes NOV's and written notices. NOV's warn an individual or organization that they are violating an environmental code and corrective action must be taken. Written notices are to inform of a possible violation.

³Emissions estimates are from building energy consumption and transportation fuels and do not include loss of sequestration capacity from land use changes and changes in tree canopy. Figures are subject to change.

⁴Impairments are contaminants or other factors that degrade water quality as determined by the Maryland Department of Environment in listing Impaired Watersheds (303(d) list).

⁵A watershed's condition is determined by its capacity to sustain the same aquatic species as those found in natural conditions, as measured by the Index of Biological Integrity. Data reflects a five-year rolling average.

ACCOMPLISHMENTS AND INITIATIVES

- ❖ *Initiate the Green Business Certification Program that recognizes and promotes businesses taking environmentally responsible actions*
- ❖ *Enhance inspection program of stormwater facilities*
- ❖ *Enhance routine maintenance program for above and below ground stormwater facilities*

- ❖ *Improve management of stream gages for enhanced water quality monitoring*
- ❖ *Completed the transfer of MCPS owned stormwater facilities to the County for maintenance.*
- ❖ *Established an informal citizen advisory workgroup in FY08 from the County's watershed and community groups provide input into the Rainscapes Rebates Program*
- ❖ *Provided environmental review of the Inter-County Connector (ICC) alignment*
- ❖ *Initiated comprehensive neighborhood-based assessments for urban runoff mitigation in five drainage areas within impaired watersheds*
- ❖ *Enrolled over 2,600 residents and 100 businesses in the Clean Energy Rewards Program. This will offset up to 19,000 tons of greenhouse gas emissions*
- ❖ *Collected data to inventory County Greenhouse Gas Emissions with publication anticipated during FY09*
- ❖ *Implemented the new Asset Maintenance Management Software System for enhanced efficiency across multiple departments*
- ❖ *Implemented enhanced customer service through a new online 24/7 environmental issues and complaints web based application*
- ❖ *Productivity Improvements*
 - *Developed an intranet-based map application in FY08 to expedite response time to residents' inquiries about the water quality protection charge*
 - *Developed an algorithm based program in FY08 using remote sensing technology to derive forest canopy in the County. This algorithm is capable of extracting impervious areas, which reduces manual labor and allows for more time to implement the program*
 - *Developed an online biological monitoring database in FY07 for field biologists, which enables direct data entry from the field*
 - *Developed the Clean Energy Rewards database to enhance budget, planning and oversight data management*

PROGRAM CONTACTS

Contact Gladys Balderrama of the Department of Environmental Protection at 240.777.7732 or Trudy-Ann Hunter of the Office of Management and Budget at 240.777.2778 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Watershed Management

This program supports watershed-based monitoring, planning, policy development, and project implementation activities which address County stream protection goals (Chapter 19, Article IV). This includes assessment of land development impacts on water resources and the effectiveness of best management practices that mitigate these impacts within the County's four designated "Special Protection Areas" (Chapter 19, Article IV). To comply with aspects of the Federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit requirements staff conduct baseline stream monitoring, storm drain discharge monitoring, and public outreach activities that increase awareness and promote citizen involvement in stream stewardship; develop watershed protection priorities; and manage stream protection and restoration projects that implement NPDES stormwater discharge permit requirements and the Countywide Stream Protection Strategy.

Program staff also manage, inspect, and enforce the operational effectiveness of over 3,000 stormwater management facilities which control impacts from stormwater runoff to protect County streams. DEP is also responsible for the structural maintenance of over 600 of these facilities. Revenue for the program is generated through a Water Quality Protection Charge, applied to all residential and associated non-residential properties (associated non-residential properties are non-residential properties that drain into the stormwater facilities of residential properties), except for those in the cities of Rockville and Takoma Park.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	6,743,680	24.1
Enhance: Annualization of transfer of MCPS owned Stormwater Management Facilities to DEP	633,800	0.0
Enhance: Below ground routine maintenance of 277 additional storm water facilities	176,970	0.0
Increase Cost: Annualization of FY08 lapsed position and Personnel Costs	150,800	0.5
Enhance: Above-ground routine maintenance of 72 additional stormwater facilities	122,660	0.0
Enhance: Inspection of 130 additional stormwater facilities	99,070	0.0
Enhance: Inspector III and operating expenses for privately-maintained stormwater management facilities and to enforce Executive Regulation 7-02 AM and NPDES permit	94,960	0.8
Increase Cost: Pass through to the City of Gaithersburg	81,550	0.0
Enhance: Planning Specialist III and operating expenses to handle the transfer of stormwater facilities to the County	65,190	0.8
Increase Cost: Planning Specialist III and operating expenses to implement the Low Impact Design: Residential Program	65,190	0.8
Increase Cost: DTS charges for maintenance of Asset Management Inventory and Maintenance System	51,000	0.0
Increase Cost: Downcounty Stream Gages maintenance	46,580	0.0
Decrease Cost: Technical adjustment of Workyears	0	-0.3
Decrease Cost: Decrease Operating Expenses	-31,500	0.0
Decrease Cost: Low Impact Design (LID) - Private Sector Program and create a new Planning Specialist III position to implement the program	-65,190	0.0
Decrease Cost: Low Impact Design - Community Outreach	-106,250	0.0
Shift: Transfer of Government Facility Retrofit with Low Impact Design to the CIP	-591,000	-1.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	186,500	-0.1
FY09 CE Recommended	7,724,010	25.6

Environmental Policy and Compliance

This program develops and implements scientifically-based, integrated programs which protect and enhance the County's environmental resources, and encourage sustainable practices by the County government, businesses and residents. The division develops, analyzes, and enforces policies, programs and regulations related to air quality (ambient and indoor), water quality and stormwater management, energy conservation, forest and tree resources, noise control, pollution prevention, and sustainability. The division is also responsible for environmental monitoring of the County's solid waste facilities; coordination of responses on all legislative referrals at the local, state and federal levels; and participation on local and regional task forces, committees, and various advisory groups.

FY09 Recommended Changes

	Expenditures	WYs
FY08 Approved	1,811,610	12.0
Increase Cost: Study resulting from the Clean Water Task Force	375,000	0.0
Add: Green Business Program	25,000	0.0
Decrease Cost: Technical adjustment of Workyears	0	-0.1
Decrease Cost: Annualization of FY08 Service Increment - Charges to Others	-1,190	0.2
Decrease Cost: Vacant Part-Time Program Specialist I	-33,600	-0.5
Decrease Cost: Decrease Operating Expenses	-38,000	0.0
Decrease Cost: Gypsy Moth Suppression and Survey	-41,000	0.0
Decrease Cost: Vacant Full-Time Planning Specialist III	-81,040	-1.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	60,400	0.1
FY09 CE Recommended	2,077,180	10.7

Administration

The Office of the Director provides leadership on policy development, implementation, and administration for all departmental programs. The Director's office is also responsible for planning, development and administration of water supply and wastewater policies for the County, development of the State-required Montgomery County Comprehensive Water Supply and Sewerage System Plan; development and implementation of the County groundwater strategy which focuses on water quality and water supply aspects of groundwater resources. Accordingly, this program provides the department and the County with a comprehensive and technically based team of experts in water and wastewater focused on promoting public health and environmental protection. In addition, the Director's office provides centrally-coordinated public education, outreach, and effective communication of County environmental initiatives and objectives to promote better community understanding of environmental issues and services provided by the

Department. The Administrative Services Section in the Director's office is responsible for budget and fiscal management oversight, contract management, human resources management, information technology, and day-to-day operational services for the department.

FY09 Recommended Changes

	Expenditures	WY%
FY08 Approved	1,910,950	14.4
Increase Cost: MLS Adjustment	14,700	0.0
Increase Cost: Annualization of FY08 Personnel Costs	9,630	0.0
Increase Cost: Central Duplicating Deficit Recovery Charge	660	0.0
Increase Cost: Central Duplicating Recovery Charge	160	0.0
Increase Cost: Technical adjustment	0	0.3
Decrease Cost: Personnel Costs	-46,550	0.0
Decrease Cost: Decrease Operating Expenses	-53,250	0.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	136,880	0.0
FY09 CE Recommended	1,973,180	14.7

BUDGET SUMMARY

	Actual FY07	Budget FY08	Estimated FY08	Recommended FY09	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	2,258,059	2,641,660	2,516,320	2,735,450	3.6%
Employee Benefits	720,062	869,570	805,640	882,250	1.5%
County General Fund Personnel Costs	2,978,121	3,511,230	3,321,960	3,617,700	3.0%
Operating Expenses	923,533	1,253,800	1,229,140	1,144,840	-8.7%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	3,901,654	4,765,030	4,551,100	4,762,540	-0.1%
PERSONNEL					
Full-Time	45	46	46	45	-2.2%
Part-Time	6	5	5	4	-20.0%
Workyears	34.9	34.9	34.9	33.9	-2.9%
REVENUES					
Civil Citations - DEP	13,580	8,000	14,000	14,000	75.0%
SPA Monitoring Fee	186,735	200,000	120,000	120,000	-40.0%
Water and Sewer Plan Review Fee	59,750	65,000	30,000	30,000	-53.8%
County General Fund Revenues	260,065	273,000	164,000	164,000	-39.9%
GRANT FUND MCG					
EXPENDITURES					
Salaries and Wages	0	0	0	0	—
Employee Benefits	0	0	0	0	—
Grant Fund MCG Personnel Costs	0	0	0	0	—
Operating Expenses	52,345	0	0	0	—
Capital Outlay	0	0	0	0	—
Grant Fund MCG Expenditures	52,345	0	0	0	—
PERSONNEL					
Full-Time	0	0	0	0	—
Part-Time	0	0	0	0	—
Workyears	0.0	0.0	0.0	0.0	—
REVENUES					
Remote High Hazard Dam Monitoring 5% Initiative	42,107	0	0	0	—
Chesapeake Bay Small Watershed	10,183	0	0	0	—
Pilot Watershed Program - Task 3	55	0	0	0	—
Grant Fund MCG Revenues	52,345	0	0	0	—
WATER QUALITY PROTECTION FUND					
EXPENDITURES					
Salaries and Wages	874,058	1,140,100	1,193,050	1,330,710	16.7%
Employee Benefits	272,975	315,540	368,920	458,940	45.4%
Water Quality Protection Fund Personnel Costs	1,147,033	1,455,640	1,561,970	1,789,650	22.9%
Operating Expenses	3,949,006	4,245,570	4,053,600	5,198,680	22.4%
Capital Outlay	0	0	0	23,500	—
Water Quality Protection Fund Expenditures	5,096,039	5,701,210	5,615,570	7,011,830	23.0%
PERSONNEL					
Full-Time	11	12	12	15	25.0%
Part-Time	1	1	1	1	—
Workyears	13.9	15.6	15.6	17.1	9.6%
REVENUES					
FEMA Reimbursement	300,194	0	0	0	—
Investment Income	273,640	230,000	230,000	150,000	-34.8%
Water Quality Protection Charge	5,980,892	6,086,440	5,986,290	8,465,140	39.1%
Water Quality Protection Fund Revenues	6,554,726	6,316,440	6,216,290	8,615,140	36.4%
DEPARTMENT TOTALS					
Total Expenditures	9,050,038	10,466,240	10,166,670	11,774,370	12.5%
Total Full-Time Positions	56	58	58	60	3.4%
Total Part-Time Positions	7	6	6	5	-16.7%
Total Workyears	48.8	50.5	50.5	51.0	1.0%
Total Revenues	6,867,136	6,589,440	6,380,290	8,779,140	33.2%

FY09 RECOMMENDED CHANGES

	Expenditures	WYs
COUNTY GENERAL FUND		
FY08 ORIGINAL APPROPRIATION	4,765,030	34.9
Changes (with service impacts)		
Add: Green Business Program [Environmental Policy and Compliance]	25,000	0.0
Other Adjustments (with no service impacts)		
Increase Cost: General Wage and Service Increment Adjustments	165,710	0.0
Increase Cost: Group Insurance Adjustment	47,630	0.0
Increase Cost: Retirement Adjustment	31,180	0.0
Increase Cost: Motor Pool Rate Adjustment	25,190	0.0
Increase Cost: MLS Adjustment [Administration]	14,700	0.0
Increase Cost: Annualization of FY08 Personnel Costs [Administration]	9,630	0.0
Decrease Cost: Printing and Mail Adjustments	3,940	0.0
Increase Cost: Central Duplicating Deficit Recovery Charge [Administration]	660	0.0
Increase Cost: Technical adjustment [Administration]	0	0.3
Decrease Cost: Annualization of FY08 Service Increment - Charges to Others [Environmental Policy and Compliance]	-1,190	0.2
Decrease Cost: Decrease Operating Expenses [Watershed Management]	-31,500	0.0
Decrease Cost: Vacant Part-Time Program Specialist I [Environmental Policy and Compliance]	-33,600	-0.5
Decrease Cost: Decrease Operating Expenses [Environmental Policy and Compliance]	-38,000	0.0
Decrease Cost: Gypsy Moth Suppression and Survey [Environmental Policy and Compliance]	-41,000	0.0
Decrease Cost: Personnel Costs [Administration]	-46,550	0.0
Decrease Cost: Decrease Operating Expenses [Administration]	-53,250	0.0
Decrease Cost: Vacant Full-Time Planning Specialist III [Environmental Policy and Compliance]	-81,040	-1.0
FY09 RECOMMENDED:	4,762,540	33.9
GRANT FUND MCG		
FY08 ORIGINAL APPROPRIATION	0	0.0
FY09 RECOMMENDED:	0	0.0
WATER QUALITY PROTECTION FUND		
FY08 ORIGINAL APPROPRIATION	5,701,210	15.6
Changes (with service impacts)		
Enhance: Annualization of transfer of MCPS owned Stormwater Management Facilities to DEP [Watershed Management]	633,800	0.0
Enhance: Below ground routine maintenance of 277 additional storm water facilities [Watershed Management]	176,970	0.0
Enhance: Above-ground routine maintenance of 72 additional stormwater facilities [Watershed Management]	122,660	0.0
Enhance: Inspection of 130 additional stormwater facilities [Watershed Management]	99,070	0.0
Enhance: Inspector III and operating expenses for privately-maintained stormwater management facilities and to enforce Executive Regulation 7-02 AM and NPDES permit [Watershed Management]	94,960	0.8
Enhance: Planning Specialist III and operating expenses to handle the transfer of stormwater facilities to the County [Watershed Management]	65,190	0.8
Other Adjustments (with no service impacts)		
Increase Cost: Study resulting from the Clean Water Task Force [Environmental Policy and Compliance]	375,000	0.0
Increase Cost: Annualization of FY08 lapsed position and Personnel Costs [Watershed Management]	150,800	0.5
Increase Cost: Pass through to the City of Gaithersburg [Watershed Management]	81,550	0.0
Increase Cost: General Wage and Service Increment Adjustments	77,650	0.0
Increase Cost: Planning Specialist III and operating expenses to implement the Low Impact Design: Residential Program [Watershed Management]	65,190	0.8
Increase Cost: DTS charges for maintenance of Asset Management Inventory and Maintenance System [Watershed Management]	51,000	0.0
Increase Cost: Downcounty Stream Gages maintenance [Watershed Management]	46,580	0.0
Increase Cost: Group Insurance Adjustment	21,120	0.0
Increase Cost: Retirement Adjustment	8,920	0.0
Decrease Cost: Printing and Mail Adjustments	2,440	0.0
Increase Cost: Central Duplicating Recovery Charge [Administration]	160	0.0
Decrease Cost: Technical adjustment of Workyears [Environmental Policy and Compliance]	0	-0.1

	Expenditures	WYs
Decrease Cost: Technical adjustment of Workyears [Watershed Management]	0	-0.3
Decrease Cost: Low Impact Design (LID) - Private Sector Program and create a new Planning Specialist III position to implement the program [Watershed Management]	-65,190	0.0
Decrease Cost: Low Impact Design - Community Outreach [Watershed Management]	-106,250	0.0
Shift: Transfer of Government Facility Retrofit with Low Impact Design to the CIP [Watershed Management]	-591,000	-1.0
FY09 RECOMMENDED:	7,011,830	17.1

PROGRAM SUMMARY

	FY08 Approved		FY09 Recommended	
	Expenditures	WYs	Expenditures	WYs
Watershed Management	6,743,680	24.1	7,724,010	25.6
Environmental Policy and Compliance	1,811,610	12.0	2,077,180	10.7
Administration	1,910,950	14.4	1,973,180	14.7
Totals	10,466,240	50.5	11,774,370	51.0

CHARGES TO OTHER DEPARTMENTS

Recipient Department	Recipient Fund	FY08		FY09	
		Total\$	WYs	Total\$	WYs
GENERAL FUND					
CIP	CIP	640,160	5.9	786,100	7.0
DEP-Solid Waste Services	Solid Waste Disposal	668,280	5.3	680,500	5.1

FUTURE FISCAL IMPACTS

Title	CE REC.		(\$000's)			
	FY09	FY10	FY11	FY12	FY13	FY14
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY09 Recommended	4,763	4,763	4,763	4,763	4,763	4,763
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	175	184	184	184	184
These figures represent the estimated cost of general wage adjustments, service increments, and associated benefits.						
Gypsy Moth Survey and Suppression	0	0	-30	-30	-30	-30
Figures are based on estimated gypsy moth population trends and represents Montgomery County's cost-share, in partnership with the State of Maryland and the Federal Government, for spraying requirements to suppress damage on priority forest and shade trees. Funding can be scaled back as the moth population cycle trends downward.						
Subtotal Expenditures	4,763	4,937	4,917	4,917	4,917	4,917
WATER QUALITY PROTECTION FUND						
Expenditures						
FY09 Recommended	7,012	7,012	7,012	7,012	7,012	7,012
No inflation or compensation change is included in outyear projections.						
Annualization of Positions Recommended in FY09	0	25	25	25	25	25
New positions in the FY09 budget are generally lapsed due to the time it takes a position to be created and filled. Therefore, the amounts above reflect annualization of these positions in the outyears.						
Elimination of One-Time Items Recommended in FY09	0	-31	-31	-31	-31	-31
Items approved for one-time funding in FY09 will be eliminated from the base in the outyears.						
Labor Contracts	0	116	119	119	119	119
These figures represent the estimated cost of general wage adjustments, service increments, and associated benefits.						
Inspections of New Facilities	0	30	61	91	121	151
These figures represent costs associated with the inspection of new above and underground stormwater management facilities projected to come into the water quality protection program.						
Maintenance Stormwater Management Facilities due to Transfer	0	258	516	516	516	516
Expenditures reflect costs associated with the transfer of existing stormwater management facilities into the County's maintenance						

Title	CE REC.		(\$000's)			
	FY09	FY10	FY11	FY12	FY13	FY14
program.						
Maintenance of New Stormwater Management Facilities due to Growth	0	81	162	243	324	405
Expenditures reflect the maintenance requirements of new stormwater management facilities.						
New facilities due to CIP projects	0	15	30	45	60	75
Increased expenditures in outyears reflect on-going maintenance costs associated with the completion of new CIP projects including the Stream Valley Improvements and Montclair Manor Flood Mitigation projects.						
Subtotal Expenditures	7,012	7,505	7,893	8,019	8,145	8,272

ANNUALIZATION OF PERSONNEL COSTS AND WORKYEARS

	FY09 Recommended		FY10 Annualized	
	Expenditures	WYs	Expenditures	WYs
Enhance: Inspector III and operating expenses for privately-maintained stormwater management facilities and to enforce Executive Regulation 7-02 AM and NPDES permit [Watershed Management]	61,360	0.8	73,630	1.0
Enhance: Planning Specialist III and operating expenses to handle the transfer of stormwater facilities to the County [Watershed Management]	61,360	0.8	73,630	1.0
Increase Cost: Planning Specialist III and operating expenses to implement the Low Impact Design: Residential Program [Watershed Management]	61,360	0.8	61,360	1.0
Total	184,080	2.4	208,620	3.0

FY09-14 PUBLIC SERVICES PROGRAM: FISCAL PLAN **Water Quality Protection Fund**

	FY08	FY09	FY10	FY11	FY12	FY13	FY14
FISCAL PROJECTIONS	ESTIMATE	RECOMMENDED	PROJECTION	PROJECTION	PROJECTION	PROJECTION	PROJECTION
ASSUMPTIONS							
Direct Cost Rate	12.56%	12.88%	12.88%	12.88%	12.88%	12.88%	12.88%
CPI (Fiscal Year)	3.59%	2.82%	2.42%	2.50%	2.50%	2.50%	2.50%
Investment Income Yield	4.00%	2.50%	2.50%	3.50%	4.00%	4.50%	4.75%
Number of Equivalent Residential Units (ERUs)	238,461	239,653	240,851	242,055	243,265	244,481	245,703
Water Quality Protection Charge per ERU	\$25.23	\$35.50	\$35.50	\$40.00	\$42.00	\$42.50	\$44.00
Collection Factor for Charge	99.5%	99.5%	99.5%	99.5%	99.5%	99.5%	99.5%
BEGINNING FUND BALANCE	2,540,280	2,025,750	1,048,440	1,118,470	1,173,540	1,164,150	1,275,730
REVENUES							
Charges For Services	5,986,290	8,465,143	9,585,870	10,115,478	10,287,069	10,703,378	11,001,352
Miscellaneous	230,000	150,000	220,000	260,000	300,000	330,000	360,000
Subtotal Revenues	6,216,290	8,615,143	9,805,870	10,375,478	10,587,069	11,033,378	11,361,352
INTERFUND TRANSFERS (Net Non-CIP)	(182,820)	(259,620)	(276,570)	(270,200)	(261,730)	(245,800)	(245,800)
Transfers To The General Fund	(182,820)	(259,620)	(276,570)	(270,200)	(261,730)	(245,800)	(245,800)
Indirect Costs	(182,820)	(230,510)	(245,390)	(245,800)	(245,800)	(245,800)	(245,800)
Technology Modernization		(291,110)	(31,180)	(2,440)	(15,930)	0	0
TOTAL RESOURCES	8,573,750	10,381,273	10,577,740	11,223,748	11,498,879	11,951,728	12,391,282
CIP CURRENT REVENUE APPROP.	(500,000)	(2,321,000)	(2,241,000)	(2,241,000)	(2,291,000)	(2,291,000)	(2,341,000)
PSP OPER. BUDGET APPROP/ EXPS.							
Operating Budget	(5,615,570)	(7,011,830)	(6,608,020)	(6,607,930)	(6,508,070)	(6,508,070)	(6,508,070)
Capital Outlay		(23,500)	0	0	0	0	0
Labor Agreement	n/a	(110,130)	(115,560)	(118,760)	(118,760)	(118,760)	(118,760)
Annualizations and One-Time (PC)	0	0	(24,540)	(24,540)	(24,540)	(24,540)	(24,540)
Annualizations and One-Time (OE)	0	0	7,220	7,220	7,220	7,220	7,220
Annualizations and One-Time (CO)	0	0	23,500	23,500	23,500	23,500	23,500
Central Duplicating Deficit Recovery Charge	0	0	(10)	320	320	320	320
FFIs - Maintenance of new facilities due to growth	0	0	(81,000)	(162,000)	(243,000)	(324,000)	(405,000)
FFIs - Maintenance of new facilities due to new CIP Projects	0	0	(15,000)	(30,000)	(45,000)	(60,000)	(75,000)
FFIs - Maintenance of new facilities due to Transfers	0	0	(258,000)	(258,000)	(516,000)	(516,000)	(516,000)
FFIs - Inspections of new facilities due to growth	0	0	(30,260)	(60,520)	(90,780)	(121,040)	(151,300)
FFIs - Annualization of MCPS facility maintenance	0	0	0	0	0	0	0
Adj for PY Encumbrances/Reserves	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Subtotal PSP Oper Budget Approp / Exp's (MARC)	(5,615,570)	(7,011,830)	(7,218,270)	(7,809,210)	(8,043,730)	(8,385,000)	(8,733,400)
OTHER CLAIMS ON FUND BALANCE	(432,426)	0	0	0	0	0	0
TOTAL USE OF RESOURCES	(6,547,996)	(9,332,830)	(9,459,270)	(10,050,210)	(10,334,730)	(10,676,000)	(11,074,400)
YEAR END FUND BALANCE	2,025,750	1,048,440	1,118,470	1,173,540	1,164,150	1,275,730	1,316,880
END-OF-YEAR RESERVES AS A							
PERCENT OF RESOURCES	23.6%	10.1%	10.6%	10.5%	10.1%	10.7%	10.6%

Assumptions:

1. These projections are based on the County Executive's Recommended Budget and include negotiated labor agreements, the operating costs of capital facilities, the fiscal impact of approved legislation or regulations, and other programmatic commitments. The projected future expenditures, revenues, and fund balances may vary based on changes to charges, usage, inflation, future labor agreements, and other factors not assumed here.
2. The labor contract with the Municipal and County Government Employees Organization, Local 1994 expires at the end of FY10.
3. The Water Quality Protection Charge is applied to all residential and associated non-residential properties (associated non-residential properties are non-residential properties that drain into the stormwater facilities of residential properties), except for those in the city of Rockville and Takoma Park.
4. Residential and associated non-residential property stormwater facilities will be maintained to permit standards as they are phased into the program.
5. Operating costs for new facilities completed between FY09-FY14 have been incorporated in the future Fiscal Impact (FFI) rows.
6. Charges are adjusted to maintain a balance of 10 to 15 percent of resources. For purposes of analysis, general rate increases are reflected in FY10, FY11, FY12, FY13, and FY14.
7. If the Water Quality Protection Charge (WQPC) is used to fund other water resource protection programs beyond this current scope, the fund balance policy will be reevaluated.

Costs for Gypsy Moth Suppression Program

Item	FY07 Actual	FY08 Estimated	FY09 Estimated
Gypsy Moth Survey			
Cost to MDA (50% of Total)	\$10,426	\$4,750	\$4,750
Cost to County (50% of Total)	\$10,426	\$4,750	\$4,750
Total Survey Costs	\$20,852	\$9,500	\$9,500
Total Acreage Sprayed			
Sprayed by MDA	445	1,490	1,490
Sprayed by County	0	1,065	1,065
Total Acreage Sprayed	445	2,555	2,555
Costs for MDA Spraying			
Cost to MDA and Feds (70% of Total)	\$22,440	\$48,195	\$48,195
Cost to County (30% of Total)	\$9,617	\$20,655	\$20,655
Total Costs for MDA Spraying	\$32,057	\$68,850	\$68,850
Costs for County Spraying			
Cost to County (100% of Total)	\$0	\$69,000	\$69,000
Costs for County Outreach			
Total Costs for County Outreach	\$0	\$2,000	\$2,000
Total Cost of Gypsy Moth Program			
Cost to MDA and Feds	32,866	52,945	52,945
Cost to County	20,043	96,405	96,405
Total Cost of Gypsy Moth Program	52,909	149,350	149,350



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert Hoyt
Director

MEMORANDUM

April 22, 2008

TO: Valerie Ervin, Councilmember
Montgomery County Council

FROM: Robert G. Hoyt, Director *RGH*
Department of Environmental Protection

SUBJECT: DEP Resources to Implement Latest Environmental Legislation

Please accept this memorandum in response to your letter dated April 11, 2008, concerning the level of resources that DEP has available to support the environmental legislation approved or introduced in the past two years. Specific information below explains how the County Executive's FY09 Recommended Budget provides sufficient resources for DEP to satisfy the requirements placed upon us by Council over the last two years.

1. Energy and Carbon Reduction Measures

The only legislation addressing energy and carbon reduction measures that relates to DEP's workload is the Climate Change package scheduled for consideration by the County Council on April 22. DEP has the resources it needs to meet the requirements placed on it by this legislation through FY09.

DEP's personnel complement to support energy and carbon reduction measures includes a Senior Planning Specialist who currently leads Energy Programs, with support from a Planning Specialist III, whose primary role is managing the Clean Energy Rewards program (see below). In addition to the Energy Programs staff, other staff involved in carbon reduction activities includes a Senior Planning Specialist for Air Programs and Sustainability.

We believe that DEP staff, working in concert with both staff from other departments, and the Sustainability Working Group will be able to manage the climate change activities resulting from Councilmember Berliner's legislative package, including the development of a comprehensive Climate Action Plan. During and after the initial plan is developed, DEP and other County Departments partnering in this effort will assess whether and to what level additional resources are needed to implement the Climate Action Plan.

Office of the Director

2. Alternative Energy Purchases

The County has two alternative energy purchase programs: the County's own clean energy purchase and the Clean Energy Rewards program. The Department of Public Works and Transportation manages the County's clean energy purchase, and DEP's Senior Planning Specialist for Energy Programs provides advice and guidance on the purchase. In addition, the Interagency Committee on Energy & Utilities Management (ICEUM) provides a forum for the discussion and evaluation of clean energy purchase options. ICEUM is made up of representatives from the County government, MCPS, Montgomery College, M-NCPPC, and WSSC.

The Clean Energy Rewards program is managed by a Planning Specialist III position created when the program was established. This employee also supports energy and climate change activities related to the Clean Energy Rewards program.

Therefore, we currently do not have the need for additional resources to continue implementing these activities.

3. Stormwater Management

DEP's stormwater management efforts include: (1) overseeing the County's NPDES stormwater permit activities; (2) the stormwater facility inspection and maintenance program funded through the Water Quality Protection Charge; (3) stormwater facility retrofit and stream restoration activities under the County's Capital Improvements Program; and, (4) the analysis and implementation of low impact development (LID) projects on public and private property.

The LID program was first funded in FY07 out of the Water Quality Protection Charge, and included the establishment of two Planning Specialist III positions to oversee the program; one focuses on public sector projects and the other on activities on private property. The Executive's recommended FY09 Budget includes the creation of an additional position to help implement private sector activities, which will fill the need for additional support.

4. Forest Conservation

The County's current Forest Conservation Law (FCL) is implemented by M-NCPPC. DEP staff, which includes a Forest Conservation Coordinator (32 hours/week) and a Program Specialist II (20 hours/week) provide advice and guidance on FCL issues to County

Ms. Valerie Ervin
April 22, 2008
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Departments, M-NCPPC staff, and the public, oversee DEP outreach efforts related to forest and tree resources, develop tools to assess forest and tree resources, and support the Forest Conservation Advisory Committee. With these resources DEP will be able to fulfill all of its required forest related activities.

5. Green Building Requirements

The Department of Permitting Services will implement the County's green building law. DEP understands that DPS has requested four additional positions dedicated to the green building program. DEP provides advice to County government staff and the public on green building issues. DEP will continue to serve in this capacity and will be able to do so at the current level of resources.

Because some of the initiatives discussed above are still in the conceptual phase, we anticipate that the tax-supported portion of our FY09 Recommended Budget of \$4,762,540 staffed with 45 full-time and 5 part-time employees, along with the Water Quality Protection Charge supported FY09 Recommended Budget of \$7,011,830, staffed with 15 full-time and one part-time employees will allow us to implement the legislative initiatives discussed above.

Thank you for your interest in ensuring that DEP has the adequate level of resources to meet the challenges of these initiatives.

cc: Nancy Floreen, Councilmember, Chair Transportation and Environment Committee
George Leventhal, Councilmember, Transportation and Environment Committee
Roger Berliner, Councilmember, Transportation and Environment Committee
Timothy Firestine, Chief Administrative Officer
Keith Levchenko, Montgomery County Council
Joseph Beach, Director, Office of Management and Budget
Stan Edwards, Department of Environmental Protection
Steve Shofar, Department of Environmental Protection

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the request of the County Executive

SUBJECT: Water Quality Protection Charge for FY09

Background

1. Under County Code Section 19-35(c), each fiscal year, the County Council must, by resolution, set the rate or rates for the Water Quality Protection Charge.
2. The base rate for the Water Quality Protection Charge is the annually designated dollar amount set by the County Council to be assessed for each equivalent residential unit of property that is subject to the Charge.
3. Under Executive Regulation 6-02, an equivalent residential unit (ERU) is defined for these purposes, as the statistical median of the total horizontal impervious area of developed single-family detached residences in the County that serves as the base unit of assessment for the Water Quality Protection Charge. The designated ERU for Montgomery County equals 2,406 square feet of impervious surface.
4. Under County Code Section 19-35, properties in the City of Takoma Park and the City of Rockville are not subject to the Water Quality Protection Charge.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The base rate for the Water Quality Protection Charge for Fiscal Year 2009 is \$35.50 per equivalent residential unit (ERU).

This resolution takes effect on July 1, 2008.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council